

FILED

JUL - 9 2013

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

In re DANIEL MAJOR EDSTROM,
Debtor-in-possession.

CHAPTER 11

DANIEL MAJOR EDSTROM, and all others
similarly situated,

DC NO. DME-2

Plaintiffs,

**PLAINTIFFS ADDITIONAL
OPPOSITION TO DEFENDANT G&P
ENTERPRISE LLC'S MOTION TO
DISMISS:**

V.

AUBURN LAKE TRAILS PROPERTY OWNERS ASSOCIATION A CALIFORNIA CORPORATION; ALLIED TRUSTEE SERVICES A CALIFORNIA CORPORATION, a Fictitious or Ghost Entity; G&P ENTERPRISES A CALIFORNIA LIMITED LIABILITY COMPANY; and DOES 1-100,

Hearing:

Date: July 23, 2013

Time: 9:32 a.m.

Ctrlm.: 32

Dept: B

Defendants.

Hon. Thomas C. Holman

501 I Street, 6th Floor, Sacramento,

California 95814, Tel.: (916) 930-4473

1 COMES NOW, DANIEL MAJOR EDSTROM ("Edstrom" or "Plaintiff") as Plaintiffs
2 request that all parties PLEASE TAKE NOTICE that Plaintiff hereby respectfully objects to and
3 opposes DEFENDANT G&P ENTERPRISE LLC'S ("G&P") MOTION TO DISMISS based on
4 the following:

5 Pursuant to the new Federal Rules, an answer or motion to strike or dismiss must be filed
6 within 21 days. See Fed. R. Civ. Pro. 12(a)(1)(A)(i), 12(b), and 12(f). In fact the summons to
7 G&P was served on April 19, 2013 (Edstrom Decl ¶ 13) and ALT's motion to dismiss was filed
8 on May 20, 2013 (Edstrom Decl ¶ 15).

9 Additionally pursuant to the United States Bankruptcy Court in and for the Eastern
10 District of California's local rules, specifically local rule 9014-1(d)(6), Defendant G&P's motion
11 must be supported by evidence. The motion is not supported by declaration. A request for
12 judicial notice is included, but it only establishes that (i) G&P has filed its LLC with the
13 California Secretary of State; and (ii) that G&P has filed for the use of the fictitious name Allied
14 Trustee Services. No other evidentiary support by G&P has been provided.


15 Defendant's motion is defective in that it has no factual basis as there was no declaration
16 or affidavit to establish its evidence, if any (except for the very limited request for judicial notice
17 that is not relevant). Thus there is nothing for the Court to consider.

18 For the reasons set forth above, Plaintiff respectfully requests that the defective motion be
19 stricken from the record, that the defective motion be removed from the calendar, or that the
20 motion be denied with prejudice. Additionally Plaintiff requests that this Court enter in the
21 Defendants default as no timely answer or motion to Plaintiffs Adversary Proceeding was
22 provided.

23 CONCLUSION

24 For the reasons set forth above, Plaintiff respectfully requests that the motion be stricken
25 from the record, removed from the calendar or that the motion be denied with prejudice.
26 Plaintiff respectfully requests that the Court enter in the Defendants default as no timely answer
27 or motion to Plaintiffs Adversary Proceeding was provided.
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1 Dated this 9th day of July, 2013

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4 DANIEL EDSTROM,
5 Plaintiff and Debtor-in-possession
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